IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTEENTH DAY OF DECEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

-

WRIT PETITION NO : 26512 of 2005

and

WRIT PETITION NO : 26515 of 2005

-

WRIT PETITION NO : 26512 of 2005

Between:

Kolishetty Krishnaiash, S/o. Ramaiah,
3-3-821/204, Vishnu Vihar Apartments,

Kuchiguda, Hyderabad.

..... PETITIONER

AND

1. Government of A.P. Rep. by its Secretary,

Law Department, Secretariat, Hyderabad
and another.

...RESPONDENTS

* * *

WRIT PETITION NO : 26515 of 2005

Between:

K. Uma Devi, W/o. K. Krishnaiah,
R/o. 406, Siri Sai Heights, 2-4-102,

Nimboliadda, Hyderabad.

..... PETITIONER

AND

1. Government of Andhra Pradesh,

Rep. by its Secretary, Law Department,

Secretariat, Hyderabad and another.

...RESPONDENTS

COMMON ORDER:

Since the issue involved in these two writ petitions is one and the same, they are being disposed of together.

2. These two writ petitions have been filed to issue writ of Mandamus directing the II Additional Chief Metropolitan Magistrate, Hyderabad and XI Additional Chief Metropolitan Magistrate, Secunderabad to decide the cases bearing C.C.No.982 of 2005 and C.C.No.1497 of 2005 respectively filed by the petitioners against the second respondent herein in both the writ petitions under Section 138 of Negotiable Instruments Act (for short 'the Act') within six months as per Section 143 (3) of the Act.

3. It is stated that in the first case, the court taken cognizance and posted the case for appearance of the second respondent on 07.04.2006, whereas the second case on 07.07.2006. It is further stated that as per the amended Section 143 of the Act as amended by Act No.55 of 2002 with effect from 06.02.2003, the cases have to be tried by the magistrates as a summary trial and the trial of the cases shall be so far as practicable, consistently with the interests of

justice, be continued from day to day until its conclusion, unless court finds adjournment of the trial beyond the following day to be necessary for reasons to be recorded in writing. Under Section 143 of the Act every trial shall be conducted as expeditious as possible and an endeavour shall be made to conclude the trial within six months from the date of filing of the complaint.

4. Though the amended provision stipulates that trial has to be conducted and every endeavour shall be made to conclude the trial within six months from the date of filing of complaint, but in view of heavy pendency of the cases filed under Section 138 of the Act, it is not possible to issue such a direction as prayed for by the petitioner directing the trial courts to dispose of the cases filed under Section 138 of the Act within six months. If any direction is given as prayed for, it will cause injustice to the old cases, which are pending. No allegations have been made as regards any discrimination or that those old cases are not being disposed of. If the concerned courts are slow in disposing or if any method is not followed for the summary trial and for early disposal, it is a different matter to make representation. But in the absence of any allegations that there is no uniformity that is followed by the courts below I am of the opinion that no direction can be issued. Every day hundreds of cases are being filed for the offence under Section 138 of the Act. Without increasing the number of courts, staff and infrastructure, the laudable object to dispose of every case filed under Section 138 of the Act within six months cannot be achieved. Therefore, no writ of Mandamus, which cannot be implemented, can be issued for the aforesaid reasons.

5. The writ petitions are, accordingly, dismissed. No costs.

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V.ESWARAIAH, J.

Date: 13th December 2005.

BSB